not present at the execution but subscribed on the acknowledgment of the mortgagor. *Held*, that this is not a good attestation. *Shamu Patter* v. *Abdul Kadir Ravuthan*, 16 Calcutta W'kly Notes, 1009 (Eng., Privy Council, July, 1912).

Statutes requiring attestation without more definite stipulation, such as the Statute of Frauds and the statute in the principal case, necessitate a decision whether the word "attest" requires attestation of the signing itself or merely attestation of an acknowledgment by the makers. As to wills, under the Statute of Frauds, the rule was early regarded as settled that attestation of the acknowledgment was sufficient. *Grayson* v. *Atkinson*, 2 Ves. 454; *Ellis* v. *Smith*, 1 Ves. Jr. 11. The Statute of Wills expressly provides for such attestation. STAT. 7 WM. IV. & 1 VICT., c. 26, § ix. The rule as to deeds is the same. *Jackson* v. *Phillips*, 9 Cow. (N. Y.) 93. But a modern tendency to construe the word in the stricter way is shown in decisions on the Bills of Sale Act (41 & 42 VICT., c. 31, § 10 (2)). *Ford* v. *Kettle*, 9 Q. B. D. 139. See *Sharpe* v. *Birch*, 8 Q. B. D. 111, 114. The only support for this is in various *dicta* and loose language. See *Burdett* v. *Spilsbury*, 10 Cl. & F. 340, 417; *Casement* v. *Fulton*, 5 Moore P. C. 130, 137; *Bryan* v. *White*, 2 Rob. Eccl. 315, 317; *Roberts* v. *Phillips*, 4 E. & B. 450, 453. The principal case is in accord with this tendency. But, it is submitted, there is no sufficient reason in justice for the more technical rule. The execution of an instrument would seem to be as well proved by attesting the acknowledgment as the actual signing. See *Jackson* v. *Phillips*, *supra*, 113.

DOMICILE — DOMICILE OF PERSONS NON SUI JURIS — INTENTION AS TO FUTURE DOMICILE. — A person domiciled in New York decided to settle permanently in Canada, but before he could leave New York he became insane. He was thereafter taken to Canada, where he died some years later. *Held*, that his domicile is in Canada. *In re Robitaille*, 48 N. Y. L. J. 393 (Surrogate's Court, N. Y. County, Oct., 1912).

The result in the principal case was reached from the astonishing premise that since the insanity of the deceased deprived him of the power to change his intention, his intention became fixed, and later concurred with his presence in Canada to establish a domicile. It would seem more correct to say that insanity deprived him of the capacity to have an intention. The holding is clearly inconsistent with the well-settled doctrine that a guardian may change a lunatic's domicile within the state, since on the theory of the principal case there would be an unalterable intention to remain at the existing domicile. *Hill* v. *Horton*, 4 Dem. Surr. (N. Y.) 88; *Holyoke* v. *Haskins*, 5 Pick. (Mass.) 20. It is clear that actual presence at a place coupled with an intention to make a home there in the future is insufficient to establish a domicile. *Plant* v. *Harrison*, 36 N. Y. Misc. 649, 74 N. Y. Supp. 411; *State Savings Association* v. *Howard*, 31 Fed. 433. The same result should follow if an actual presence is combined with a past intent. The requirements of domicile should be found in fact and not by fiction. It might be argued in the principal case that there should be a presumption in favor of the jurisdiction of the Canadian court which had already admitted the will to probate. But see *Sullivan* v. *Kenney*, 148 Ia. 361, 375, 126 N. W. 349, 354. For a further discussion of the principles of domicile, see 22 HARV. L. REV. 220; 23 *id.* 211.

DURESS — RECOVERY OF MONEY PAID UNDER THREAT OF CRIMINAL PROSECUTION. — The plaintiff, compelled by a threat of the defendant to prosecute him for larceny, settled a claim of the defendant's for the goods stolen from the latter. He now sues to recover the money paid under the settlement. *Held*, that he can recover the amount paid in excess of the value of the goods. *Wilbur* v. *Blanchard*, 126 Pac. 1069 (Idaho). See NOTES, p. 255.